

Message Text

SECRET

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ACTION NEA-13

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FM AMEMBASSY ANKARA

TO SECSTATE WASHDC 2494

COMSIXTHFLT

INFO AMCONSUL IZMIR

US DOCOLAND SOUTHEAST

TUSLOG DET 118

CINCUSAFE

EUCOM

AMCONSUL ADANA

AMCONSUL ISTANBUL

NAVY JAP WASHDC

USDOCOSOUTH

S E C R E T ANKARA 0494

E.O. 11652: GDS

TAGS: MILI, CASC, TU

SUBJ: JANUARY 18 DISCUSSIONS AT FOREIGN MINISTRY: IZMIR HASHISH CASE

REF ANKARA 457

1. SUMMARY. EMBASSY DISCUSSED IZMIR HASHISH CHARGES AGAINST THREE SIXTH FLEET SAILORS WITH FOREIGN MINISTRY. MINISTRY TOOK POSITION THAT IT COULD INVOLVE ITSELF IN MATTER ONLY IF DISCRIMINATORY APPLICATION OF (ADMITTEDLY DEFECTIVE)LAW COULD BE DEMONSTRATED. MINISTRY NOTED THAT LAW HAD BEEN PASSED IN RESPONSE TO NEEDS AND WISHES OF OTHER COUNTRIES, TURKEY ITSELF HAVING HAD NO DRUG OR HASH PROBLEM. WAIVER OF JURISDICTION ALSO DISCUSSED. END SUMMARY.

2. DURING DISCUSSION WITH YAVUZALP AT FONMIN JANUARY 18,
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WE (MSA COUNS) RAISED CASE OF THREE U.S, SIXTH FLEET SAILORS BEING

HELD IN IZMIR ON HASHISH CHARGES. ON PREVIOUS DAY, JUDGE HAD REFERRED CASE BACK TO PROSECUTOR, SUGGESTING THAT CONSIDERATION SHOULD BE GIVEN TO CHARGING DEFENDANTS BEFORE HIGHER COURT, NOT WITH SIMPLE POSSESSION, WHICH IS CURRENT CHARGE, BUT UNDER A DIFFERENT ARTICLE OF CRIMINAL CODE WHICH CARRIES HEAVIER PENALTIES, INCLUDING DEATH SENTENCE AND LIFE IMPRISONMENT.

3. WE REVIEWED HAYES AND ANTAKYA THREE CASES, EXPRESSING CONCERN AT SEVERITY OF SENTENCES AND MENTIONING THAT THERE WERE THOSE WHO WONDERED IF THIS REFLECTED SOME KIND OF POLICY DECISION. WE NOTED THAT PUBLIC PROSECUTOR IN HAYES CASE (WHICH YAVUZALP SEEMED TO HAVE BEEN UNAWARE OF, AND AT WHICH HE WINCED WHEN WE TOLD HIM OF 30-YEAR SENTENCE) COULD BE VIEWED AS HAVING GRATUITOUSLY HOUNDED THE DEFENDANT. WHILE IZMIR DEVELOPMENT WAS CLEARLY UNRELATED TO OTHER MATTERS WE HAD COME TO DISCUSS, IT NEVERTHELESS CAME ALONG AT SAME TIME AND ADDED TO POTENTIALLY BAD IMPACT.

4. YAVUZALP ASKED WHETHER OUR COMPLAINT WAS DIRECTED AGAINST THE LAW ITSELF, OR AGAINST ALLEGEDLY DISCRIMINATORY TREATMENT OF AMERICANS. WE REPLIED THAT, AS TO DISCRIMINATION, WE DID NOT HAVE EVIDENCE ONE WAY OR THE OTHER AND WERE SEEKING IT. AS TO THE LAW, IT DID POSE A PROBLEM IN THAT, UNLIKE OUR OWN, IT MADE NO DISTINCTION BETWEEN HASHISH AND HARD DRUGS, TREATING BOTH WITH EQUAL AND EXTREME SEVERITY.

5. YAVUZALP SAID (AND LATER REPEATED) THAT IF DISCRIMINATION COULD BE DEMONSTRATED, THIS WOULD GIVE FONMIN BASIS TO ENTER CASE. BUT IF ONLY COMPLAINT WERE AGAINST LAW ITSELF, MINISTRY'S HANDS WERE TIED. LAW WAS ADMITTEDLY DEFECTIVE, BUT IF IMPARTIALLY APPLIED, IT LAY BEYOND REACH OF FONMIN. HE THEN NOTED WHAT HE THOUGHT WAS EQUIVOCAL NATURE OF U.S. POSITION. TURKEY HAD NO DRUG OR HASHISH PROBLEM. ITS PRESENT SEVERE LAW HAD BEEN PASSED IN RESPONSE TO PROBLEMS AND NEEDS OF OTHER COUNTRIES WHICH DID HAVE THESE PROBLEMS. IT WAS THEY THAT HAD WANTED TURKEY TO TAKE STRONG ACTION AGAINST SMUGGLING.

6. WE REPLIED THAT WE RECOGNIZED AND APPRECIATED WHAT TURKEY HAD DONE IN NARCOTICS AREA. PROBLEM LAY IN HANDLING OF HASHISH
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CASES. REVERTING TO IZMIR CASE, WE POINTED OUT THAT OPTION EXISTED THAT WAS ABSENT IN HAYES AND ANTAKYA CASES: WAIVER OF JURISDICTION UNDER NATO SOFA.

7. YAVUZALP WARNED THAT REQUESTS FOR WAIVERS UNDER NATO SOFA SHOULD BE VERY SPARINGLY AND SELECTIVELY SOUGHT IF FONMIN WAS TO HAVE ANY CHANCE OF OBTAINING POSITIVE RESULT FROM MINJUSTIC. SPECIAL CIRCUMSTANCES HAD TO BE MANIFEST. WE

SAID THAT AS RESULT PREVIOUS DISCUSSIONS WITH MINISTRY, WE HAD
INDEED BEEN CONSIDERING WHETHER TO ADOPT SELECTIVE APPROACH.
IT WAS POSSIBLE THAT WE MIGHT HAVE CONCLUDED, IN IZMIR CASE,
THAT WIAVERS SHOULD NOT BE SOUGHT. PROSPECTIVE ESCALATION OF
CHARGES, HOWEVER, LEFT US LITTLE CHOICE BUT TO SEEK WAIVERS.

(NOTE: WE WILL SEEK WAIVERS.) WE REMARKED THAT FOR REASONS
UNKNOWN TO US, SIXTH FLEET SAILOR CASES WERE ONLY CASES IN
WHICH WE HAD, IN FACT, OBTAINED WAIVERS IN PAST.
YAVUZALP OFFERED NO COMMENT OR EXPLANATION ON THIS.
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